

1 STATE OF CALIFORNIA
2 DEPARTMENT OF INDUSTRIAL RELATIONS
3 DIVISION OF WORKERS' COMPENSATION

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6
7 PUBLIC HEARING

8 Friday, February 15, 2019
9 Elihu Harris State Office Building Auditorium
10 1515 Clay Street
11 Oakland, California

12 JOHN CORTES
13 Moderator
14 Industrial Relations Counsel

15 MAUREEN GRAY
16 Regulations Coordinator

17 GEORGE PARISOTTO
18 Administrative Director

19 RAYMOND MEISTER
20 Medical Director

21 CAROL FINULIAR
22 Industrial Relations Counsel

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24
25 Reported By: Linda Shryack

1 FRIDAY, FEBRUARY 15, 2019, 10:04 A.M.

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3 MR. CORTES: Why don't we go ahead and get started. Good
4 morning everyone, and thank you for coming today. My name is
5 John Cortez. I'm an Industrial Relations Counsel for the
6 Division of Workers' Compensation. This is our noticed public
7 hearing for the proposed evidence-based updates to the Medical
8 Treatment Utilization Schedule, also known as the MTUS.

9 The Division is proposing to make evidence-based
10 updates to the MTUS by adopting the latest public versions of
11 the American College of Occupational and Environmental
12 Medicine, or ACOEM, Elbow Disorders Guideline, the Hand, Wrist
13 and Forearm Disorder Guideline, the Ankle and Foot Disorder
14 Guideline, and the first of a series of guidelines covering the
15 topic of workplace mental health. This is the, this is the
16 guideline or the series of guidelines that will be replacing
17 the old Stress chapter in the old MTUS.

18 So the first guideline under the Workplace Mental
19 Health is entitled "Post Traumatic Stress Disorders and Acute
20 Stress Disorders Guideline." There is a sign-in sheet and
21 copies of the Notice of Proposed Regulations on the desk near
22 the door where I believe most of you have entered this morning.
23 That desk is to my right, and from your perspective, to your
24 left. Please make sure you sign the sign-in sheet and indicate
25 if you wish to testify today.

1 Now I'd like to take a moment to introduce the other
2 DW staff with me today. To my right, I'm joined by Maureen
3 Gray, the Divisions Regulations Coordinator. And to my left is
4 George Parisotto, our Administrative Director. And to his left
5 is Raymond Meister, our Executive Medical Director, and to his
6 left is Carol Finuliar, another Industrial Relations Counsel
7 for the DWC. And our hearing reporter today is Linda Shryack.

8 If you wish to be notified of any subsequent changes
9 or of the final adaptation of the MTUS evidence-based updates,
10 please provide your complete name and mailing address on our
11 hearing registration attendance sheet located at the sign-in
12 table that I described moments ago. Any notice of any changes
13 in the final notice to the evidence-based updates to the MTUS
14 will be sent to everyone who requests that information.

15 So the purpose of today's hearing is to receive
16 comments on the proposed amendments to the regulations, and we
17 welcome any comments that you have about them. We will not,
18 however, question, respond to, or discuss anyone's comments,
19 although we may ask for clarification or ask you to elaborate
20 further on any points that you are presenting today.

21 All of your comments, both given here today and those
22 submitted in writing, will be considered in determining what
23 revisions, if any, we make to the proposed regulations.
24 Please restrict the subject of your comments to the proposed
25 regulations, and also, please limit your comments to three

1 minutes in length. I will call the names of those who have
2 indicated they wish to testify today, and I definitely
3 apologize in advance if I'm mispronouncing anyone's names.
4 When you come up to testify, please first give your business
5 card to Ms. Gray. And if you have any written testimony that
6 you'd like to submit, also give that to Ms. Gray before you
7 testify. All testimony today will be taken down by the hearing
8 reporter.

9 When everyone on this list has had a chance to
10 testify, I will check to see if anybody new has come in who
11 wants to testify that has additional comments. This hearing
12 will continue as long as there are people present who wish to
13 comment on the proposed regulations, but it will close at 5:00
14 this afternoon. If the hearing continues into the lunch hour,
15 we will take at least an hour break.

16 Finally, all written comments can be given to Ms. Gray
17 if you don't wish to testify today but you have written
18 comments to submit. So you can give that to Ms. Gray, or DWC
19 will accept written comments by hand delivery up to 5:00 this
20 afternoon at the Division's office located on the 18th floor of
21 this building. So, please give them to our receptionist if you
22 hand deliver it to our office.

23 The DWC will also accept all written comments by fax
24 at the following number: It's area code (510) 286-0657, or to
25 the following e-mail address -- and it is all lower case:

1 "dwcrules @ dir, dot, ca, dot, gov." All written comments
2 submitted by fax or by e-mail will be accepted until midnight
3 tonight. With that, let me go ahead and take a look at the
4 sign-in sheet and call the first speaker.

5 Okay. So, so far, we don't have anybody who has
6 signed up to speak. What, what I'm gonna do is I'm gonna go
7 off the record for just a few minutes and wait to see if anyone
8 comes in a little late who wishes to testify today. So let's
9 just give this a few minutes. So off the record.

10 (Pause in the proceedings.)

11 MR. CORTES: Let's go back on the record, please.

12 MS. PRZEPIORSKI: Good morning. This is Diane
13 Przepiorski. I'm the Executive Director to the California
14 Orthopedic Association, and I really just wanted to take this
15 opportunity to thank the Division for your perseverance in work
16 with the Reed Group to make the MTUS Guidelines available to
17 the providers on a complimentary basis.

18 As you know, we have long advocated that any State
19 mandated treatment guidelines should be more readily available
20 to providers. Even though the Reed Group was open to
21 negotiating discounts off their, their basic price, it still
22 was a bit of an impediment. And now we've removed that
23 impediment, and we are already promoting to our members that
24 they should sign up and gain access. So I just really wanted
25 to formerly put on the record that health providers really

1 appreciate the Division continuing to work on that project.

2 There is one thing that we have tried to do over the
3 years with the Reed Group. We tried to work with them directly
4 when they're developing amendments to their treatment
5 guidelines, and that often has been very helpful. They don't
6 always accept our comments, but at least it's an opportunity to
7 provide some specialty input to their guidelines.

8 The one thing I would ask, if the division has ongoing
9 discussions with the Reed Group, is that they try to give the
10 organizations that they reach out to a little more time to
11 submit comments. Usually, they'll send us a draft, and they
12 need our comments back within 30 days. That's a pretty fast
13 turnaround time for us to convene a group of experts in a
14 particular area, because we have no advance notice that
15 they're, they're considering revising a certain treatment
16 guideline. And if we just had a little more notice, I think we
17 could do a better job in bringing some expert discussion to the
18 table, and ultimately, that would filter down and make the
19 Division's job easier as well because we'd be able to
20 incorporate the evidence at their level.

21 So I appreciate the opportunity to make those
22 comments.

23 MR. CORTES: Thank you.

24 MR. CATTOLICA: Good morning. This is Steve Cattolica
25 with the SC Advocates, and our consulting clients, some of them

1 are mental health practitioners, and we welcome the specificity
2 that's now going to become commonplace with respect to
3 treatment of mental health issues. But a couple things before
4 we get to that.

5 First of all, I want to reiterate that and, and
6 emphasize Ms. Przepiorski's comment with respect to helping the
7 Reed Group understand that their expert reviewers, the people
8 that they ask to take a final look at what they're proposing,
9 do need more time. We had PMNR physicians who were given no
10 more than 30 days to look through thousands of pages, and they
11 were asked to provide, you know, evidence-based alternatives if
12 they didn't like what they saw. Well, that's more than a full
13 time job for 30 days, and the fact was that that made it --
14 essentially tied their hands. The Reed Group needs to
15 understand that if this is going to be effective in the, in the
16 users realm, and they want that help, they're going to need to
17 be a little bit more understanding.

18 Specifically, with respect to the 9792.23.8, the
19 workplace mental health, as I say, it's a great idea to now
20 become more specific. This may be my ignorance, but -- and I'm
21 gonna ask a question. You don't need to answer it, but I'm
22 surely hoping that the chronic pain guidelines went someplace,
23 rather than just off into the nether, and no longer be
24 available.

25 But regardless of that, I think that our suggestion,

1 our main suggestion is to retain the last sentence of what's
2 been stricken, wherein, the -- actually, it starts on the first
3 page, where it says, "If the condition, treatment or evaluation
4 is unrelated," and it says "chronic pain," I would suggest that
5 you substitute "chronic pain" for the disorder specified,
6 specifically covered in this section, and then go on to
7 reiterate the importance of the evidence, medical evidence
8 search sequence as the alternative. Essentially, to throw that
9 out would be to leave it to somebody else's judgment what might
10 be done, and I think that it's important to have something to
11 fall back on.

12 For too long -- and you all recognized this. Reed
13 recognized this, that most mental health are faced, are --
14 faced with mental health diagnoses, were relegated to the pain
15 guidelines. Well, that's not always going to work. As a
16 matter of fact, it didn't work most of the time, so you had to
17 go to the sequence. Well, to drop that recommendation out of
18 the regulation itself, I think, would be an error and, and
19 leave it to too much flapping in the wind. So that would be
20 our suggestion, is to reword it, make it fit the context, but
21 retain it. Thank you.

22 MR. CORTES: Thank you, Steve.

23 Any other person who wishes to testify this morning?

24 All right. So if we do not have anyone else who
25 wishes to make a verbal comment today, the time is now 10:14,

1 it looks like, and this public hearing is now closed. Thank
2 you for coming today.

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4 (Meeting adjourned at 10:14 a.m.)

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R E P O R T E R ' S C E R T I F I C A T E

I, Linda Shryack, the undersigned Official Hearing Reporter for the State of California, Department of Industrial Relations, Division of Workers' Compensation, do hereby certify that the foregoing matter is a full, true, and correct transcript of the proceedings taken by me in shorthand, and with the aid of audio backup recording, on the date and in the matter described on the first page, thereof.

DATED: February 20, 2019
Santa Rosa, California



Linda Shryack
Official Hearing Reporter